



20 APR 2006

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Chicago, IL 60606

In re Application of:	:	
BECK, James, P., et al.	:	
U.S. Application No.: 10/527,294	:	DECISION ON PETITION
PCT No.: PCT/US2003/028388	:	UNDER 37 CFR 1.47(a)
International Filing Date: 10 September 2003	:	
Priority Date: 10 September 2002	:	
Attorney's Docket No.: 02-730-B5	:	
For: SUBSTITUTED AMINOETHERS FOR THE	:	
TREATMENT OF ALZHEIMER'S DISEASE	:	

This decision is issued in response to applicants' 22 February 2006 petition under 37 CFR 1.47(a). Applicants have paid the required petition fee.

BACKGROUND

On 10 September 2003, applicants filed international application PCT/US2003/028388. The application claimed a priority date of 10 September 2002 and designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 10 March 2005.

On 09 March 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 22 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required.

On 30 January 2006, the DO/EO/US mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a timely response to the Notification Of Missing Requirements mailed 22 July 2005.

On 22 February 2006, applicants filed a response to the Notification Of Missing Requirements, with the required five-month extension fee. The response included payment of the required surcharge, a declaration executed by two of the three inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition requests acceptance of the declaration without the signature of the remaining inventor, Matthew DROWNS, whom applicants assert cannot be located after diligent effort.

DISCUSSION

1. Notification Of Abandonment:

Based on the five-month extension of time paid for by applicants, the 22 February 2006 submission is considered a timely response to the Notification Of Missing Requirements mailed 22 July 2005. The "Notification Of Abandonment" (Form PCT/DO/EO/909) mailed 30 January 2006, based as it was on applicants' purported failure to file a timely response to the Notification Of Missing Requirements, is therefore appropriately vacated.

2. Petition Under 37 CFR 1.47(a):

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

The petition here was accompanied by payment of the petition fee, and it includes a statement of the nonsigning inventor's last known address. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by two of the three inventors and including an unsigned signature box identifying the nonsigning inventor (Matthew DROWNS). This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), applicants assert that the nonsigning inventor cannot be located after diligent effort. The petition includes a declaration of Steven J. Sarussi, and exhibits thereto, detailing the efforts made to locate and contact the nonsigning inventor, including mailings to multiple addresses, an email communication, efforts to reach the inventor at multiple telephone numbers, and an internet search conducted to identify the most current address and telephone number for the nonsigning inventor. These materials provide an adequate showing that the nonsigning inventor cannot be reached or located after diligent effort. Item (4) is therefore satisfied.

CONCLUSION

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 30 January 2006 is hereby **VACATED**.

The petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of nonsigning inventor Matthew DOWNS.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 22 February 2006.

A handwritten signature in black ink, appearing to read 'RM Ross', with a stylized flourish at the end.

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In re Application of: BECK, James, P., et al.

U.S. Application No.: 10/527,294

PCT No.: PCT/US2003/028388

International Filing Date: 10 September 2003

Priority Date: 10 September 2002

Attorney's Docket No.: 02-730-B5

For: SUBSTITUTED AMINOETHERS FOR THE TREATMENT OF ALZHEIMER'S
DISEASE

Dear Dr. DROWNS:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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